

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

OMAR LIONEL REED,

Petitioner,

v.

No. 23-cv-0596 MV-KRS

STATE OF NEW MEXICO, *et al*,

Respondents.

ORDER TO CURE DEFICIENCIES

This matter is before the Court on Omar Lionel Reed’s *pro se* Motion to Dismiss (Doc. 1) (Motion). He asks the Court to dismiss his pending state prosecution for criminal sexual penetration and kidnapping, Case No. D-506-CR-2023-044. Reed allegedly committed the offense at the Lea County Correctional Facility, where he was serving his sentence pursuant to a North Carolina judgment. He is now incarcerated at the Penitentiary of New Mexico. The Motion alleges, inter alia, Reed is being denied his right to a speedy trial; to confront witnesses; to adequate notice of the charges; and to effective assistance by counsel.

Federal courts are generally not authorized to dismiss a pending state criminal prosecution. *See New Orleans Pub. Serv., Inc. v. Council of New Orleans*, 491 U.S. 350, 364 (1989) (“absent extraordinary circumstances the federal court should not enjoin pending state criminal prosecutions”). This Court normally only intervenes in a pending state criminal matter where the pretrial detention itself violates federal law. *See Muhammad v. Close*, 540 U.S. 749, 750 (2004) (“Federal law opens two main avenues to relief on complaints related to imprisonment: a petition for habeas corpus ... and a complaint under the Civil Rights Act ...[,] 42 U.S.C. § 1983.”); *Yellowbear v. Wyo. Att’y Gen.*, 525 F.3d 921, 924 (10th Cir. 2008) (explaining that “§ 2241 is a

vehicle for challenging pretrial detention”). If Reed wishes to challenge the constitutionality of his pretrial detention, he may file a habeas corpus petition under 28 U.S.C. § 2241 within thirty (30) days of entry of this Order. By the same deadline, Reed must either prepay the \$5.00 habeas filing fee or, alternatively, file a motion to proceed *in forma pauperis*. Any *in forma pauperis* motion must attach an inmate account statement reflecting transactions for a six-month period. See 28 U.S.C. § 1915(a)(2). The Clerk’s Office will mail Reed a blank § 2241 habeas petition and a blank *in forma pauperis* motion. The failure to timely comply with both directives in this Order (*i.e.*, return a completed petition and address the filing fee) may result in dismissal of this case without further notice.

IT IS ORDERED that within thirty (30) days of entry of this Order, Reed must: (1) file a § 2241 petition; and (2) prepay the \$5.00 filing fee or, alternatively, file an application to proceed *in forma pauperis* along with an inmate account statement reflecting transactions for a six-month period.

IT IS FURTHER ORDERED that the Clerk’s Office shall **MAIL** Reed a blank 28 U.S.C. § 2241 habeas petition and a blank motion to proceed *in forma pauperis*.



UNITED STATES MAGISTRATE JUDGE